




Report to the Auburn City Council


Action Item

Agenda Item No.

4


City Manager Approval

To: Mayor and City Council Members

From: Bernie Schroeder, Director of Public Works
Megan Siren, Administrative Analyst 

Date: May 12, 2014

Subject: 2014 Placer County Air Pollution Control District Clean Air Grant Contract – Electric Vehicle Charging Stations Project

The Issue

Shall the City sign and execute a Contract with the Placer County Air Pollution Control District for the Clean Air Grant for the Electric Vehicle Charging Stations Project.

Conclusion and Recommendation

Staff recommends that City Council by **RESOLUTION**, authorize the Director of Public Works to sign and execute the Clean Air Grant Contract No. CN000775 with the Placer County Air Pollution Control District for the Electric Vehicle Charging Station Project.

Background

The Public Works Department applied for the 2014 Clean Air Grant through the Placer County Air Pollution Control District (PCAPCD) for the Electric Vehicle Charging Stations Project. The project details include installing two electric vehicle charging stations at two locations: City Hall Parking Lot and the Auburn Multi Modal Station Parking Lot.

The PCAPCD Board approved the grant application at their April Board meeting for funding in the amount of \$10,000. Based on the two locations, the cost estimate for the total project is estimated to be \$13,570. The additional funding of \$3,570 required to fully fund the proposed locations is to come from the Building & Facilities Budget in the General Fund for FY 2014/15. The intent of the project is to reduce carbon dioxide, carbon monoxide and nitrogen oxides by offering an alternative fueling options within the City of Auburn.

Alternatives Available to Council; Implications of Alternatives

1. Proceed with Staff Recommendation
2. Do not proceed with staff recommendation

Fiscal Impact

The proposed 2014/15 Fiscal year budget will incorporate the EV Charging Stations Project within the Building & Facilities Budget in the General Fund (Fund 45-231). The total project is estimated to be \$13,570.

Attachment: 2014 Clean Air Grant Contract



CLEAN AIR GRANT AGREEMENT

Contract No. CN000775

Contract Year: 2014

This AGREEMENT is between the Placer County Air Pollution Control District (hereinafter "PCAPCD") and the City of Auburn, (hereinafter "CONTRACTOR").

RECITALS

WHEREAS, under AB 2766 and AB 923 (Health and Safety Code Section 44220 and 44225 *et seq.*), PCAPCD has levied a \$6.00 fee on motor vehicles registered within PCAPCD; and

WHEREAS, PCAPCD has received Air Quality Mitigation Funds to off-set the impact of new development in Placer County by reducing emissions, primarily ozone precursor emissions, from sources that are not required by law to reduce emissions; and

WHEREAS, pursuant to AB 2766, AB 923 and the APCD's Offsite Mitigation Program, the monies collected under these levies must be used to reduce air pollution from motor vehicles and other sources, and for related air quality planning, education, air monitoring, and technical studies necessary for the implementation of the California Clean Air Act; and

WHEREAS, CONTRACTOR has requested that PCAPCD provide Clean Air Grant monies for the PROJECT(s) described in Exhibit A, subject to the terms and conditions set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has represented to PCAPCD that CONTRACTOR has the necessary expertise, experience and ability to competently complete the described PROJECT(s); and

WHEREAS, PCAPCD staff has carefully reviewed the described PROJECT(s) and have found it/them to be within the requirements of AB 2766, AB 923 and the Offsite Mitigation Program in that the PROJECT(s) are reasonably expected to reduce air pollution and help in the further implementation of the California Clean Air Act; and

WHEREAS, the PCAPCD Board of Directors has approved Resolution #14-10, authorizing the Air Pollution Control Officer to negotiate, sign, and amend as needed, grant agreements and contracts for approved projects listed in the table "PCAPCD Clean Air Grant Projects 2014".

NOW THEREFORE, In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. Contract Period

- a) The term of this contract shall begin on the date signed by both parties and conclude on or before May 31, 2017, unless terminated or amended.
- b) This contract may be canceled by either party upon serving thirty (30) days notice in writing to the other party.

2. Services

- a) CONTRACTOR agrees, during the term of this AGREEMENT, to perform the contracting services set forth below and in Exhibit "A" – Scope of Services (hereinafter "PROJECT").
- b) CONTRACTOR shall be obligated to devote as much time, attention, skill, and effort as may be reasonably required to perform the PROJECT services, in a professional and timely manner, consistent with the elements of the project.

3. Payment

- a) PCAPCD agrees to pay for the services covered by this AGREEMENT pursuant to the payment schedule set forth below and in Exhibit "B"- Contract Terms and Payment for Services Rendered.
- b) The amount paid to the CONTRACTOR shall constitute full payment for all services set forth herein. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum approved sum.
- c) CONTRACTOR shall bill PCAPCD upon completion of the project and after all of the conditions for funding outlined in this AGREEMENT are met. If the project funded under this contract is performed in phases or over a period of time, then requests can be made by the CONTRACTOR for partial payment. Partial requests for payments must receive prior authorization by PCAPCD. CONTRACTOR agrees to provide a detailed invoice to PCAPCD with copies of purchase orders, signed contracts, or receipts referencing the contract number. PCAPCD retains the right to require proof of services performed or costs incurred prior to any payment under this AGREEMENT. **At the discretion of PCAPCD, ten (10) percent of the contract amount will be withheld pending the submittal and approval of the first Monitoring Report as outlined in Exhibit C – Monitoring Report Format.**

- d) Notwithstanding any other terms of this AGREEMENT, no payments shall be made to CONTRACTOR until PCAPCD is satisfied that work of such value has been rendered pursuant to this AGREEMENT. However, PCAPCD shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

4. **Notices**

- a) Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, sent certified or registered and addressed to the parties as follows:

PCAPCD:
Placer County Air Pollution Control District
Attn: Air Pollution Control Officer
110 Maple Street
Auburn, CA 95603

CONTRACTOR
Bernie Schroeder
City of Auburn
1225 Lincoln Way
Auburn, CA 95603

- b) Any notice so delivered personally shall be deemed to be received on the date of delivery and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

5. **Obligations of PCAPCD**

- a) PCAPCD agrees to pay CONTRACTOR an amount not to exceed the requirements set forth in Exhibit "B" – Contract Terms and payment for Services Rendered, in accordance with the requirements listed in Exhibit "A" – Scope of Services.
- b) PCAPCD shall not reimburse CONTRACTOR for any expenses incurred by CONTRACTOR in the performance of PROJECT described in Exhibit A unless such reimbursement is specifically authorized in the Payment Schedule. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum amount.
- c) Except for the payment obligations set forth above, PCAPCD shall have no other obligations or responsibilities to CONTRACTOR under this AGREEMENT.

6. Obligations of CONTRACTOR

- a) CONTRACTOR has or will obtain all additional funding set forth in Exhibit B of this AGREEMENT.
- b) CONTRACTOR has or will obtain all required licenses, permits, fees, and other legal authorizations from all applicable Federal, State, and local jurisdictions necessary to commence and properly complete, in a professional manner, the PROJECT described in Exhibit A and will produce said documents if requested by PCAPCD.
- c) Labor, equipment, material, supply costs and other charges will be in conformance with the requirements of Exhibit A.
- d) No component of the monies to be paid by PCAPCD to CONTRACTOR shall be used for grant administration or any interest costs.
- e) CONTRACTOR shall provide proof of PROJECT completion and verification of costs as set forth in Exhibit A and paragraph 3.

7. Hold Harmless/Indemnity

- a) The CONTRACTOR hereby agrees to protect, defend, indemnify, and hold PCAPCD free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PCAPCD arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PCAPCD) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. CONTRACTOR agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONTRACTOR. CONTRACTOR also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against CONTRACTOR or PCAPCD or to enlarge in any way the CONTRACTOR'S liability but is intended solely to provide for indemnification of PCAPCD from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.
- b) As used above, the term PCAPCD means PCAPCD or its officers, agents, employees, and volunteers.

8. **Insurance Requirements**

- a) It is recognized that CONTRACTOR is self insured, and as such provides coverage for General Liability and Worker's Compensation.
- b) CONTRACTOR shall file with PCAPCD, concurrently herewith, Certificates of Insurance. All certificates are to be received and approved by PCAPCD before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. PCAPCD reserves the right to require complete, certified copies of all required insurance policies, required by these specifications, at any time.

CONTRACTOR shall maintain the following insurance coverage in full force and effect during the term of this contract:

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

If CONTRACTOR represents that they have no employees, and does not hire SUBCONTRACTORS with employees, then they are not required to have Workers Compensation coverage.

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONTRACTOR'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

CONTRACTOR shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed with PCAPCD upon demand.

GENERAL LIABILITY INSURANCE

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONTRACTOR, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- 1. Contractual liability insuring the obligations assumed by CONTRACTOR in this Agreement.

B. One of the following forms is required:

1. Comprehensive General Liability;
2. Commercial General Liability (Occurrence); or
3. Commercial General Liability (Claims Made).

C. If CONTRACTOR carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- One million dollars (\$1,000,000) aggregate

D. If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

1. The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) for Products-Completed Operation
 - One million dollars (\$1,000,000) General Aggregate
2. If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limit is two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

1. The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - One million dollars (\$1,000,000) General Aggregate
2. The insurance coverage provided by CONTRACTOR shall contain contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

9. Facilities, Equipment and Other Materials

Except as set forth herein CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this AGREEMENT. PCAPCD shall furnish CONTRACTOR only those facilities, equipment, and other materials, and shall perform only those obligations as listed herein.

10. Non-Discrimination

CONTRACTOR shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual preference, or in contravention of any other protected classification or practice identified in the California Fair Employment and Housing Act; Government Code section 12900 et seq.

11. Records and Documents

- a) CONTRACTOR shall maintain at all times complete, detailed records with regard to work performed under this AGREEMENT, in a form acceptable to PCAPCD, and PCAPCD shall have the right to inspect such records at any reasonable time.
- b) CONTRACTOR agrees to return to PCAPCD, upon termination of this AGREEMENT, all documents, drawings, photographs, and other written or graphic material, however produced, received from PCAPCD and used by CONTRACTOR in the performance of its services. All work papers, drawings, internal memoranda, graphics, photographs, and any written or graphic material, however produced, prepared by CONTRACTOR in connection with its performance of services hereunder shall be, and shall remain after termination of this AGREEMENT, the property of PCAPCD and may be used by PCAPCD for any purpose whatsoever. PCAPCD agrees that any future use of documents produced by the CONTRACTOR under the terms of this contract shall be at the sole discretion of PCAPCD and CONTRACTOR shall bear no liability for the decisions on whether and how to use such documents.

12. Independent Status

- a) CONTRACTOR shall perform this contract as an independent CONTRACTOR and not as an employee of PCAPCD. CONTRACTOR acknowledges that CONTRACTOR is not entitled to any of PCAPCD's fringe benefits, including without limitation; paid holidays, life insurance, sick leave, or travel or any other expenses in connection with services performed hereunder. No part of the compensation payable to CONTRACTOR hereunder shall be deducted or withheld for payment of Federal or State income or other employment related taxes. It shall be the responsibility of CONTRACTOR to provide all coverage necessary for CONTRACTOR'S own benefit and not as an employee of PCAPCD.

- b) Except as PCAPCD may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of PCAPCD in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this AGREEMENT to bind PCAPCD to any obligation whatsoever.

13. Warranties

CONTRACTOR warrants that its services are performed, with the usual thoroughness and competence; in accordance with the standard for professional services at the time those services are rendered.

14. Licenses, Permits, Etc

CONTRACTOR represents and warrants to PCAPCD that it has or will obtain before initiation of the PROJECT, all licenses, permits, qualifications, and approvals of whatever nature, which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to PCAPCD that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this AGREEMENT, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

15. Assignment or Transfer

CONTRACTOR may assign any of its rights, burdens, duties, or obligations under this AGREEMENT only upon the prior written consent of PCAPCD. Approval will be at the sole discretion of PCAPCD.

16. Modification of Agreement

This AGREEMENT cannot be changed or supplemented orally, and may be modified or superseded only by written instrument executed by all parties.

17. Waiver

One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this AGREEMENT shall not operate as a waiver of any subsequent breach or default.

18. Entirety of AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT and understanding between the parties. There are no oral understandings, terms, or conditions, and no party has relied upon any representation, express or implied, not contained in this AGREEMENT. Any prior understandings, terms, or conditions are deemed merged into this AGREEMENT. This AGREEMENT is intended as the complete and exclusive statement of the parties' Agreement pursuant to Code of Civil Procedure section 1856.

19. Jurisdiction

This AGREEMENT, and the right and obligations of the parties, shall be governed by and construed in accordance with the laws of the State of California. If any action is instituted to enforce or interpret this AGREEMENT, venue shall only be in the appropriate state or federal court having venue over matters arising in Placer County, California, provided that nothing in this AGREEMENT shall constitute a waiver of immunity to suit by PCAPCD.

20. Exhibits

All exhibits referred to herein and attached hereto are fully incorporated by this reference.

The parties so agree.

PCAPCD:

Thomas J. Christofk
Air Pollution Control Officer

Date

CONTRACTOR:

Bernie Schroeder
Director of Public Works

Date

EXHIBIT A
SCOPE OF SERVICES

Contract Number: CN000775

CONTRACTOR: City of Auburn

1. Prior to funding, and prior to the close of the Project Completion End Date, as outlined in Exhibit B, the CONTRACTOR shall meet the following conditions:
 - a. Purchase and install two electric vehicle charging stations as outlined in the CONTRACTOR's 2014 Clean Air Grant application.
 - b. The installation of the charging stations shall include the necessary striping, signage, and electrical upgrades to facilitate the project.
 - c. Adhere to the budget as outlined in the CONTRACTOR's 2014 Clean Air Grant application.
 - d. Provide copies of invoices relative to the purchase of materials, equipment, and services being funded through this AGREEMENT.
 - e. Make the equipment/project associated with this PROJECT available for inspection by PCAPCD Staff.
 - f. Submit an original invoice to PCAPCD, for the amount of requested grant funds for reimbursement.
 - g. Clearly display on a permanent placard at each electric vehicle charging station that partial funding was made available from PCAPCD, during the term of this AGREEMENT. Any graphics used for this purpose need to be approved in advance by District Staff. Expenses accrued in purchasing two placards may be included in the request for reimbursement outlined in this AGREEMENT should the CONTRACTOR choose to do so.
2. CONTRACTOR shall do their best to 1) quantify/estimate the amount of annual electricity usage for each charging station, 2) quantify/estimate the number of unique users for each charging station, and 3) identify time of use (e.g. weekday, weekend, evening, daytime, and etc...) for the term of this AGREEMENT. The PCAPCD shall help the CONTRACTOR devise a mechanism for tracking such items at the request of the CONTRACTOR.
3. CONTRACTOR shall notify PCAPCD in writing if installation and/or implementation of this PROJECT will deviate from the scope of work as outlined in the CONTRACTOR'S 2014 Clean Air Grant Application or this AGREEMENT at any time during the term of this AGREEMENT. CONTRACTOR shall notify the APCO within 15 days of recognizing such deviation. If funding has not yet been disbursed at the time of recognizing such deviation, then the CONTRACTOR shall notify the APCO at least 30 days in advance of any request for payment. The APCO has the sole discretion to approve, deny, or adjust funding amount as outlined in Exhibit B of this AGREEMENT, based on the extent of the deviation.
4. CONTRACTOR shall provide PCAPCD two Monitoring Reports as described in Exhibit C. The Monitoring Report shall be submitted within 90 days after the first and second year of

operation.

5. Pursuant to Section 8 of this AGREEMENT, CONTRACTOR shall provide certificates of insurance prior to performing work on this project, and throughout the term of this contract.
6. If for any reason, after PROJECT funding, the equipment/project funded under this contract does not perform according to what was submitted in the 2014 CAG application or if the conditions of this AGREEMENT are not met, the PCPACD may seek reimbursement of grant funds.

EXHIBIT B

CONTRACT TERMS AND PAYMENT FOR SERVICES RENDERED

Contract Number: CN000775

CONTRACTOR: City of Auburn

Budget:

Amount Awarded by PCAPCD:	\$ 10,000
Co-Funding (including in-kind):	\$ 4,795
Estimated Total PROJECT Amount:	\$ 14,795

If the Total PROJECT Amount be less than what is listed above, then the CONTRACTOR shall continue to provide an equivalent percentage of Co-Funding based on the reduced Total PROJECT Amount. The Amount Awarded by PCAPCD, as list above, shall be adjusted accordingly.

Contract Schedule (to occur on or before the following dates):

Start Date:	when signed by both parties
Project Completion End Date:	May 31, 2015
Contract End Date:	May 31, 2017

Payment:

PCAPCD will provide up to Ten Thousand Dollars (\$10,000) in funding for two electric vehicle charging stations in accordance with the requirements listed in this AGREEMENT.

At the sole discretion of PCAPCD, ten (10) percent of the awarded grant amount, as outlined in this Exhibit, will be withheld pending the submittal and approval of the first Monitoring Report as outlined in Exhibit C – Monitoring Report Format.

Payment(s) shall be made to the CONTRACTOR within thirty (30) days after the billing is received and approved by PCAPCD.

Funds will not be available for payment until after July 1, 2014. Invoices submitted for payment prior to this date will be held and paid after that date.

An IRS Form 1099 will be issued for incentive funds received under this AGREEMENT, if applicable. It is the CONTACTOR'S responsibility to determine tax liability associated with receiving Clean Air Grant incentive funds.

Invoices:

Invoices shall be submitted to PCAPCD in an original format and include contract number CN000775. Along with submitting an invoice for reimbursement, provide copies of all paid receipts and proof of in-kind support (when applicable) associated with the PROJECT funded under this AGREEMENT.

EXHIBIT C
MONITORING REPORT FORMAT

Contract Number: CN000775

CONTRACTOR: City of Auburn

Each Report shall be submitted within 90 days after the first and second year of operation and include the following information:

1. Identify the project being reported, including contract number.
2. Describe any problems encountered during implementation or operation of the charging stations.
3. Describe the performance of the charging stations.
4. Provide estimated annual electricity usage or vehicle usage for the previous year(s) operation for each charging station.

Note: After the final report is submitted to the District, Staff may conduct a performance evaluation on the project.

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RESOLUTION NO. 14-
RESOLUTION AUTHORIZING THE EXECUTION OF THE 2014 CLEAN AIR GRANT
CONTRACT.

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby authorize the
Director of Public Works to sign and execute the 2014 Clean Air Grant Contract
No. CN000775 with the Placer County Air Pollution Control District for the
Electric Vehicle Charging Station Project.

A true and correct copy of said 2014 Clean Air Grant Contract is attached
hereto as Exhibit "A."

DATED: May 12, 2014

Bridget Powers, Mayor

ATTEST:

Stephanie L. Snyder, City Clerk

I, Stephanie L. Snyder, City Clerk of the City of Auburn, hereby certify
that the foregoing resolution was duly passed at a regular session meeting of
the City Council of the City of Auburn held on the 12th day of May 2014 by
the following vote on roll call:

Ayes:
Noes:
Absent:

Stephanie L. Snyder, City Clerk

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